

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION and
THE PEOPLE OF THE STATE OF NEW
YORK, by LETITIA JAMES, Attorney
General of the State of New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a limited
liability company;

PREVAGEN, INC., a corporation
d/b/a/ SUGAR RIVER SUPPLEMENTS;

QUINCY BIOSCIENCE
MANUFACTURING, LLC, a limited
liability company; and

MARK UNDERWOOD, individually and as
an officer of QUINCY BIOSCIENCE
HOLDING COMPANY, INC., QUINCY
BIOSCIENCE, LLC, and PREVAGEN,
INC.

Defendants.

Case No. 1:17-cv-00124-LLS

**PLAINTIFF'S PROPOSED
JURY VERDICT FORM**

Plaintiff the People of the State of New York, by Letitia James, Attorney General of the
State of New York ("Plaintiff") hereby submits its proposed jury verdict form.

1. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen improves memory**?

a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

b. The claim was made more than once? ☐ Yes ☐ No

c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No

d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No

e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No

f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

2. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen is clinically shown to improve memory**?

a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

b. The claim was made more than once? ☐ Yes ☐ No

c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No

d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No

e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No

f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

3. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen improves memory within 90 days**?

a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

b. The claim was made more than once? ☐ Yes ☐ No

c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No

d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No

e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No

f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

4. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen is clinically shown to improve memory within 90 days**?

a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

b. The claim was made more than once? ☐ Yes ☐ No

c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No

d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No

e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No

- f. The claim was material to consumers, that is,
likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

5. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen reduces memory problems associated with aging?**

- a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

- b. The claim was made more than once? ☐ Yes ☐ No
- c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No
- d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No
- e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No
- f. The claim was material to consumers, that is,
likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

6. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen is clinically shown to reduce memory problems associated with aging?**

- a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

- b. The claim was made more than once? ☐ Yes ☐ No
- c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No
- d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No

- e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No
- f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

7. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen provides other cognitive benefits, including but not limited to healthy brain function, sharper mind, or clearer thinking?**

- a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

- b. The claim was made more than once? ☐ Yes ☐ No
- c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant, unthinking or credulous consumer? ☐ Yes ☐ No
- d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No
- e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No
- f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

8. Do you find by a preponderance of the evidence that one or more of the Defendants claimed in their advertising that **Prevagen is clinically shown to provide other cognitive benefits, including but not limited to healthy brain function, sharper mind, or clearer thinking?**

- a. ☐ Yes ☐ No

If yes, do you find by a preponderance of the evidence that:

- b. The claim was made more than once? ☐ Yes ☐ No
- c. The claim had the capacity or tendency to deceive not only the average consumer, but also the ignorant,

- unthinking or credulous consumer? ☐ Yes ☐ No
- d. The claim was false, misleading, or unsubstantiated at the time it was made? ☐ Yes ☐ No
- e. The claim was likely to mislead consumers acting reasonably under the circumstances? ☐ Yes ☐ No
- f. The claim was material to consumers, that is, likely to affect their decision to purchase Prevagen? ☐ Yes ☐ No

If you answered "Yes" to part (a) of any of Questions 1 through 8 on this form, proceed to Question 9.

9. Do you find by a preponderance of the evidence that Defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc., and Quincy Bioscience Manufacturing, LLC operated as a common enterprise?

☐ Yes ☐ No

10. If you answer "No" to Question 9, please identify which entity or entities you find by a preponderance of the evidence made or participated in the making of the advertising claims identified in Questions 1 through 8 above:

Quincy Bioscience Holding Company, Inc.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Quincy Bioscience, LLC	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Prevagen, Inc.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Quincy Bioscience Manufacturing, LLC	<input type="checkbox"/> Yes	<input type="checkbox"/> No

FINAL PAGE OF JURY VERDICT FORM

You have now reached the end of the Verdict Form and should review it to ensure it accurately reflects your **unanimous** determinations. After you are satisfied that your unanimous answers are correctly reflected above, your Jury Foreperson should then sign and date this Verdict Form in the spaces below. Once that is done, notify the Court Security Officer that you have reached a verdict.

SIGNED this ____ day of _____ 2024

JURY FOREPERSON

Dated: New York, New York

January 31, 2024

PEOPLE OF THE STATE OF NEW YORK
BY LETITIA JAMES

Attorney General of the State of New York

By: /s/ Mary Alestra

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2024, I have caused service of the foregoing Plaintiff's Proposed Jury Verdict Form to be made by electronic filing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Dated: January 31, 2024

/s/ Mary Alestra

Mary Alestra

New York State Office of the Attorney General